

ORDINANCE NO. 2288

**AN ORDINANCE CREATING THE
BOROUGH OF ROSELLE PARK MUNICIPAL LAND USE BOARD**

WHEREAS, the Borough of Roselle Park currently has a separate Planning Board and a separate Zoning Board of Adjustment, pursuant to Borough Code Chapter 40, Article I, §40-101 and Article II §40-201, respectively; and

WHEREAS, Article I, §40-101A., is hereby amended to provide that the Borough of Roselle Park Municipal Land Use Board shall have nine members; and

WHEREAS, Article I, §40-101C., is hereby amended as follows: There shall also be appointed by the Mayor four (4) alternate members to the Municipal Land Use Board. The alternates shall have the same qualifications as the regular members in Class IV. The alternate members shall be designated at the time of appointment by the Mayor as “Alternate No. 1” and “Alternate No. 2.”, and

WHEREAS, pursuant to N.J.S.A. 40:55D-25(c)(1), in a municipality having a population of 15,000 or less, a nine-member planning board if so provided by ordinance, shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment, but the Class I and Class III members shall not participate in consideration of applications for development which involve relief pursuant to subsection d. of section 57 of P.O. 1975, c.291 (C.40:55D-70); and

WHEREAS, in an effort to improve government efficiency and reduce costs to Roselle Park taxpayers, the Mayor and Council desires that the Borough of Roselle Park Planning Board shall exercise all those powers currently exercised by the Borough of Roselle Park Zoning Board of Adjustment, pursuant to N.J.S.A. 40:55D-25(c)(1).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park, County of Union and State of New Jersey as follows:

SECTION 1. Chapter 40, Article I, §40-101A, Article II §40-101B, Article II §40-101C, and Chapter 40, Article II §40-201 of the Borough of Roselle Park Code are hereby repealed and the Borough of Roselle Park Planning Board and Zoning Board of Adjustment are hereby dissolved.

SECTION 2. The Borough of Roselle Park Planning Board shall be renamed the Borough of Roselle Park Municipal Land Use Board (“MLUB”) and shall continue to exercise all powers granted to it as a planning board pursuant to New Jersey statutes and the Borough of Roselle Park Code.

SECTION 3. In addition to those powers specified in Section 2 of this Ordinance, the MLUB shall exercise, to the same extent and with the same restrictions, all the powers of the Borough of Roselle Park Zoning Board of Adjustment, provided that the Class I and Class III

members of the MLUB shall not participate in applications for development which involve relief pursuant to subsection d. of N.J.S.A. 40:55D-70.

SECTION 4. In accordance with Section 2 of this Ordinance, Chapter 40, Article I, §40-101 of the Borough of Roselle Park Code is hereby amended to read as follows:

ARTICLE I Municipal Land Use Board

§40-101A Municipal Land Use Board membership; terms.

The Planning Board and Zoning Board of Adjustment, as heretofore established, shall be and is hereby continued under the name “Municipal Land Use Board,” with all powers and duties as described herein.

A. There shall be a nine-member Municipal Land Use Board, the membership of which shall consist of the following four classes:

(1) Class I: the Mayor or the Mayor's designee in the absence of the Mayor;

(a) The term of the member composing Class I shall correspond to such member's official tenure. If such member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure.

(b) The Mayor may appoint a designee to serve at his pleasure, provided a letter of appointment is filed with the Borough Clerk. Any person appointed shall serve until a letter of appointment of another person is filed with the Borough Clerk.

(2) Class II: one of the officials of the Borough other than a member of the governing body, to be appointed by the Mayor; provided that if there be an Environmental Commission, the member of the Environmental Commission who is also a member of the Municipal Land Use Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Municipal Land Use Board member for purposes of this section in the event that there be among the Class IV or alternate members of the Municipal Land Use Board a member of the Board of Education;

(a) The term of the member composing Class II shall be for one year or terminate at the completion of the member's respective term of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission.

(b) The term of a Class II member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of the member's term of office as a member of the Environmental Commission, whichever occurs first.

3. Class III: a member of the Governing Body to be appointed by Council: provided that the term of the member composing Class III shall be for one year or terminate at the completion of the member's respective term of office, whichever occurs first.

4. Class IV: Six (6) other citizens of the Borough, to be appointed by the Mayor.

(a) The members of Class IV shall hold no other municipal office, position or employment except that one such member may be a member of the Historic Preservation Commission. Not more than one member of the Board of Education may be a Class IV member of the Municipal Land Use Board. If and while there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Municipal Land Use Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Municipal Land Use Board member, unless there be among the Class IV or alternate members of the Municipal Land Use Board a member of the Historic Preservation Commission and a member of the Board of Education, in which case the member common to the Municipal Land Use Board and Environmental Commission shall be deemed a Class II member of the Municipal Land Use Board. For the purpose of this section, membership on a Township board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of municipal office.

(b) The term of a Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.

(c) The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

(d) To the greatest practicable extent, the expiration of the terms of all Class IV members shall be distributed so that concurrent term expirations are avoided, provided that the initial Class IV term for no member shall exceed four years. After the establishment of the Board's membership as aforesaid, the Class IV term of each member shall be four years.

(e) If a vacancy in any class shall occur otherwise than by expiration of the Municipal Land Use Board term, it shall be filled by appointment, as above provided, for the unexpired term.

(f) All members of the Board, except the Class II member, shall be municipal residents.

(g) No member of the Municipal Land Use Board shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if requested, may be removed by the governing body for cause.

Alternate members

- A. There shall be four alternate members of the Municipal Land Use Board, both of whom shall be municipal residents. Alternate members shall be appointed by the appointing authority for Class IV members and shall meet the qualifications of Class IV members. Alternate members shall be designated at the time of appointment as "Alternate No. 1", "Alternate No. 2.", "Alternate No. 3" and "Alternate No. 4." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

SECTION 5. If any section or portion of a section of this Code shall be invalid for any reason, such invalidity shall not affect the validity of the remaining sections or portions of this Ordinance.

SECTION 6. All ordinances and parts of ordinances inconsistent with the terms hereof are hereby repealed to the extent of such inconsistency.

SECTION 7. This ordinance shall take effect in the time and manner prescribed by law.

Introduced: December 3, 2009

Adopted:

Mayor

Attest: _____
Borough Clerk